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EXAMINER
KUMAR, PANKAJ

ART UNIT	PAPER NUMBER
2631	

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/662,405	ELDUMIATI ET AL.
	Examiner	Art Unit	
	Pankaj Kumar	2631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 February 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 4-48* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 4-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed have been fully considered but they are not persuasive.

2.   Applicant argues that in Scott, in step 304, Scott has finished physical handshaking and established data connection and thus subsequent steps do not occur during the physical handshaking process. This is not persuasive. Physical handshaking has not finished in Scott's 305 since even after the data connection is established in Scott's 305, various steps still need to occur before data transfer is enabled in 360 and it is possible for access to be denied and connection dropped in 350 if authentication fails.

3.   Applicant recitation from applicant's specification has not been claimed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4.   Applicant argues that Scott is authenticating connection numerous times while applicant only does it once and thus the claims should be allowed. This is not persuasive since both Scott and applicant authenticate connection at least once, Scott anticipates applicant's authentication.

5.   Applicant argues that Kalmanek does not disclose identification process can occur during physical handshaking process. This is not persuasive since what is claimed is: performing during the physical handshaking process and exchanging identification data with said second modem if said determining determines that said second modem meets said compatibility criteria. What Kalmanek discloses is: performing during the physical handshaking process (Kalmanek fig. 2: performing various functions; establishing gates and sending and receiving to complete the connection before commit message while fig. 4 has steps after the commit message) and

exchanging identification data with said second modem if said determining determines that said

second modem meets said compatibility criteria (Kalmanek fig. 2: exchanging reserve and/or end

to end messages any of which examiner interprets as identification data; this is done after setup

messages are exchanged and gates are established and which examiner interprets as occurring

after compatibility criteria is met).

6.   Applicant argues that Scott teaches away from combining with any reference that

performs identification during physical handshaking process since Scott requires identification to

occur continuously during the call and not once. This is not persuasive for a number of reasons.

First, Scott is performing identification during physical handshaking with the modem id and the

challenge even after the data connection is established in Scott's 305 as various steps still need to

occur before data transfer is enabled in 360 and it is possible for access to be denied and

connection dropped in 350 if authentication fails. Second, a reference that performs

identification/physical handshaking once can be used over and over again in Scott which does

identification/physical handshaking over and over again.

7.   Applicant argues that retrieving a key based on calling modem's ID is not identification

data comprises information selected from the group consisting of a platform identifier, a

controller version, a DSP revision, and a firmware version. This is not persuasive. The ID in

modem ID stands for identification data which has information which at the minimum is a

platform identifier. The modem is the platform and the modem ID provides the identification of

the platform.

8.   As per the amendment to claim 30 as well as the other amendment's they are discussed in

the response to amendment section in this action.

9.   Applicant argues that the LID code in Dudek does not identify the handset since LID

code identifies the receiving system. This is not persuasive. The handset is both a transmitting

system and a receiving system. The handset has to identify itself to the telepoint company so

that the telepoint company can keep communication from one handset separate from another

handset.

Response to Amendment

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

11.   Claims 1, 2, 4, 5, 30, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Scott 5311596 in view of Kalmanek 6757290 and Jones 6513068/Storch 5367148. Here is how

the references teach the claims:

12.   As per claim 1: A method for use by a first modem to establish a data communication

session with a second modem, said method comprising: calling said second modem (Scott fig. 1:

120) via a telephone line (Scott fig. 1: 130); starting a physical handshaking process with said

second modem (Scott col. 4 lines 25-26 "handshaking and training to establish a data

connection"; fig. 3: 305); transmitting a pseudo-randomly generated code word (Scott fig. 3: 320,

325) to said second modem (Scott fig. 3: 330) during said physical handshaking process (not in

Scott but would be obvious as explained below); receiving a scrambled code word from said

second modem (Scott fig. 3: 335), wherein said scrambled code word (Scott fig. 3: "random

number") is generated by scrambling said codeword (Scott fig. 3: number; key; modem ID)

during said physical handshaking process; analyzing said scrambled code word (Scott fig. 3:

340) during said physical handshaking process; and determining if said second modem meets a

compatibility criteria based on said analyzing (Scott fig. 3: 345, 355, 360, 350) during said

physical handshaking process; and exchanging identification data with said second modem if

said determining determines that said second modem meets said compatibility criteria (not in

Scott but would be obvious).

13.   What Scott does not teach are performing during the physical handshaking process and

exchanging identification data with said second modem if said determining determines that said

second modem meets said compatibility criteria. What Kalmanek teaches is performing during

the physical handshaking process (Kalmanek fig. 2: performing various functions; establishing

gates and sending and receiving to complete the connection before commit message while fig. 4

has steps after the commit message) and exchanging identification data with said second modem

if said determining determines that said second modem meets said compatibility criteria

(Kalmanek fig. 2: exchanging reserve and/or end to end messages any of which examiner

interprets as identification data; this is done after setup messages are exchanged and gates are

established and which examiner interprets as occurring after compatibility criteria is met).

14.   Thus, it would have been obvious, to one of ordinary skill in the art, at time the invention

was made, to arrive at the performing during the physical handshaking process and exchanging

identification data with said second modem if said determining determines that said second

modem meets said compatibility criteria as indicated by the instant claims, because the combined

teaching of Scott with Kalmanek suggest communication by performing during the physical

handshaking process and exchanging identification data with said second modem if said

determining determines that said second modem meets said compatibility criteria as recited by

the instant claims. Furthermore, one of ordinary skill in the art, would have been motivated to

combine the teachings of Scott with Kalmanek because Scott suggests performing various steps

such as transmitting and receiving (something broad) in general and Kalmanek suggests the

beneficial use of performing steps during the physical handshaking process (such as keeping the

connection alive Kalmanek paragraph 380) and exchanging identification data with said second

modem if said determining determines that said second modem meets said compatibility criteria

(such as fig. 25: renegotiating connection to establish a new channel for a 3 way call) in the

analogous art of telecommunication.

15.   What Scott does not teach is wherein said identification data are indicative of a

manufacturer identity of said first modem and a particular modem version number of said first

modem. What Jones teach is wherein said identification data are indicative of a manufacturer

identity of said first modem and a particular modem version number of said first modem (Jones

col. 5 lines 33-34: sends back a compatible modem version; col. 6 lines 1, 15: object ID, property

ID). If this is not sufficient, Storch 537148 teaches sending product ID numbers to

manufacturer's registration system (Storch col. 11 lines 46-61). Thus, it would have been

obvious, to one of ordinary skill in the art, at time the invention was made, to arrive at the

identification data are indicative of a manufacturer identity of said first modem and a particular

modem version number of said first modem as recited by the instant claims, because the

combined teaching of Scott with Jones/Storch suggest identification data are indicative of a

manufacturer identity of said first modem and a particular modem version number of said first

modem as recited by the instant claims. Furthermore, one of ordinary skill in the art, would have

been motivated to combine the teachings of Scott with Jones/Storch because Scott suggests

modem ID (something broad) in general and Jones suggests the beneficial use of modem version,

object ID, property ID such as monitoring and controlling remote interactive systems and Storch

suggests the beneficial use of the manufacturer receiving the product ID so that it can know if it

is genuine in the analogous art of product identification.

16.   As per claim 2: The method of claim 1 wherein said identification data comprises

information selected from the group consisting of a platform identifier (Scott fig. 3: 320: "key

based on calling modem ID"), a controller revision, a DSP revision, and a firmware revision.

17.   Claim 3 (cancelled)

18.   As per claim 4: The method of claim 1 further comprising completing said physical

handshaking process to start said data communication session with said second modem

(Kalmanek fig. 2: performing various functions; establishing gates and sending and receiving to

complete the connection before commit message while fig. 4 has steps after the commit

message); optimizing said data communication session based on said compatibility criteria (Scott

fig. 3: if key is not valid for decryption, then compatibility criteria of having a match in the

challenge will not be made; Kalmanek fig. 4: optimizing connection by closing gate if

acknowledgement is not received in a specific time period) wherein said exchanging said

identification data occurs after said completing said physical handshaking process (Kalmanek

figs. 2, 4: exchanging reserve, end to end message, commit message, other messages).

19.   As per claim 5: The method of claim 1 further comprising optimizing said data

communication session based on said identification data wherein said exchanging said

identification data occurs during said physical handshaking (Scott fig. 3: if match is made, the

system either enables data transfer or waits before next steps depending on number of

reauthentications and if the match is not made then the connection is dropped and thus it is

optimizing connection; Kalmanek fig. 4: optimizing connection by closing gate if

acknowledgement is not received in a specific time period.)

20.   As per claim 30, Scott in view of Kalmanek teaches a modem identification method for

use by a first modem, said method comprising: placing a call by said first modem (Scott fig. 1:

200) to a second modem (Scott fig. 1: 120); entering a physical handshaking process (Scott fig.

4: 605); transmitting a first modem manufacturer parameter (Scott fig. 4: 610) to said second

modem during said physical handshaking process (not in Scott but would be obvious as

explained below) wherein said first modem manufacture parameter identifies said first modem

(Scott fig. 4: 610 is modem identification); receiving a second modem manufacture parameter

from said second modem during said physical handshaking process, wherein said second modem

manufacture parameter identifies said second modem (Scott fig. 4: 615 based on key as in fig. 3);

and completing said physical handshaking process to establish a data communication session

with said second modem (Scott fig. 4: 620, 625).

21.   What Scott does not teach is performing during the physical handshaking process. What

Kalmanek teaches is performing during the physical handshaking process (Kalmanek fig. 2:

performing various functions; establishing gates and sending and receiving to complete the

connection before commit message while fig. 4 has steps after the commit message).

22.   Thus, it would have been obvious, to one of ordinary skill in the art, at time the invention

was made, to arrive at the performing during the physical handshaking process as indicated by

the instant claims, because the combined teaching of Scott with Kalmanek suggest

communication by performing during the physical handshaking process as recited by the instant

claims. Furthermore, one of ordinary skill in the art, would have been motivated to combine the

teachings of Scott with Kalmanek because Scott suggests performing various steps such as

transmitting and receiving (something broad) in general and Kalmanek suggests the beneficial

use of performing steps during the physical handshaking process (such as keeping the connection

alive Kalmanek paragraph 380) in the analogous art of telecommunications.

23.   What Scott does not teach is wherein said identification data are indicative of a

manufacturer identity and a particular modem version number of the modems. What Jones

teaches is wherein said identification data are indicative of a manufacturer identity and a

particular modem version number (Jones col. 5 lines 33-34: sends back a compatible modem

version; col. 6 lines 1, 15: object ID, property ID). If this is not sufficient, Storch 537148

teaches sending product ID numbers to manufacturer's registration system (Storch col. 11 lines

46-61). Thus, it would have been obvious, to one of ordinary skill in the art, at time the

invention was made, to arrive at the identification data are indicative of a manufacturer identity

and a particular modem version number as recited by the instant claims, because the combined

teaching of Scott with Jones/Storch suggest identification data are indicative of a manufacturer

identity and a particular modem version number as recited by the instant claims. Furthermore,

one of ordinary skill in the art, would have been motivated to combine the teachings of Scott

with Jones/Storch because Scott suggests modem ID (something broad) in general and Jones

suggests the beneficial use of modem version, object ID, property ID such as monitoring and

controlling remote interactive systems and Storch suggests the beneficial use of the manufacturer

receiving the product ID so that it can know if it is genuine in the analogous art of product

identification.

24.   As per claim 33, Scott in view of Kalmanek teaches the method of claim 30. Scott in

view of Kalmanek does not teach wherein said first modem manufacturer parameter is

transmitted as part of V.8. However, it would have been obvious, to one of ordinary skill in the

art, at time the invention was made, to modify the prior art teaching of Scott in view of

Kalmanek by replacing H.323 as in col. 1 of Kalmanek with the V.8 as recited by the instant

claims, because Scott in view of Kalmanek suggests when there is equipment that is

recommended or required to comply with a standard one would use that standard such as when

there is equipment that is recommended or required to comply with V.8 standards, one would use

the V.8 standard, in the analogous art of telecommunications.

25.   Claims 6-29, 31, 32, 38, 40-48 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Scott 5,311,596 in view of Kalmanek 6757290 and further in view of Dudek 5,208,812.

Here is how the references teach the claims:

26.   As per claim 6 (currently amended): Scott in view of Kalmanek teaches the method of

claim 1. What Scott in view of Kalmanek does not teach is wherein after said determining, said

method further comprising opening a primary data channel, thereafter opening a second logical

channel; and transmitting diagnostic/maintenance data to said second modem using said second

logical channel. Dudek teaches wherein after said determining, said method further comprises

opening a primary data channel (Dudek col. 7 lines 23-42: "first logic channel"); thereafter

opening a second logical channel (Dudek col. 7 lines 23-42: "second logic channel"; paragraph

136: D channel); and transmitting diagnostic/maintenance data to said second modem using said

second logic channel (Dudek col. 7 lines 23-42: "quality of transmission of the second logical

channel"; paragraph 136: D channel).

27.   Thus, it would have been obvious, to one of ordinary skill in the art, at time the invention

was made, to arrive at the after said determining, said method further comprising opening a

primary data channel, thereafter opening a second logical channel; and transmitting

diagnostic/maintenance data to said second modem using said second logical channel as recited

by the instant claims, because the combined teaching of Scott in view of Kalmanek with Dudek

suggest communication after said determining, said method further comprising opening a

primary data channel, thereafter opening a second logical channel; and transmitting

diagnostic/maintenance data to said second modem using said second logical channel as recited

by the instant claims. Furthermore, one of ordinary skill in the art, would have been motivated to

combine the teachings of Scott in view of Kalmanek with Dudek because Scott in view of

Kalmanek suggests negotiating connection (something broad) in general and Dudek suggests the

beneficial use of determine quality of transmission (such as to have a good quality connection)

(in the analogous art of telecommunication).

28.   As per claim 7, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 wherein said diagnostic/maintenance data comprises customer platform

identification data (Dudek paragraph 136: "The D channel code word also contains a LID field";

"the code placed in the LID field will be a base identification code (BID),").

29.   As per claim 8, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 wherein said diagnostic/maintenance data comprises customer code revision

identification data (Dudek paragraph 15: "Depending on the burst structure being used, as will be

described later, each burst comprises either 68 bits or 66 bits."; revision between 66 bits and 68
bits).

30.   As per claim 9, Scott in view of Kalmanek and further in view of Dudek teaches the
method of claim 6 wherein said diagnostic/maintenance data comprises modem initialization
data (Dudek col. 23 lines 65-68: "Once this synchronization has been obtained, the contents of
the D channel can be decoded and the process of link initiation can begin.").

31.   As per claim 10, Scott in view of Kalmanek and further in view of Dudek teaches the
method of claim 6 wherein said diagnostic/maintenance data comprises a remote query by said
first modem of the responses of said second modem to AT commands (Dudek figs. 33, 34:
querying to see if ID is ok or lost).

32.   As per claim 11, Scott in view of Kalmanek and further in view of Dudek teaches the
method of claim 6 wherein said diagnostic/maintenance data comprises information regarding a
status of call waiting (Dudek checking ID status of the call between the base station and the
cordless phone; if the base station receives a call, then the call is inherently waiting until the
cordless phone answers the call).

33.   As per claim 12, Scott in view of Kalmanek and further in view of Dudek teaches the
method of claim 6 wherein said diagnostic/maintenance data comprises remote network
management information (Dudek: handshaking requires managing information, such as ID, with
a network of at least 2 devices where one device is remote from the other device).

34.   As per claim 13, Scott in view of Kalmanek and further in view of Dudek teaches the
method of claim 6 wherein said diagnostic/maintenance data comprises system configuration
data (Dudek configuring for 66 or 68 bits).

35.   As per claim 14, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 wherein said transmitting said diagnostic/maintenance data further comprises:

transmitting a command to said second modem; and receiving a response from said second

modem in response to said command (Dudek figs. 33, 34 shows communication between 11 and

3).

36.   As per claim 15, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 wherein said diagnostic/maintenance data comprises firmware revision data

transmitted from said first modem to said second modem (Dudek paragraph 166: " ... the LID

code may identify the telepoint company or system with which the handset is registered ... ";

paragraph 15: "Depending on the burst structure being used, as will be described later, each burst

comprises either 68 bits or 66 bits."; revision between 66 bits and 68 bits).

37.   As per claim 16, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 wherein said diagnostic/maintenance data comprises uniquely generated call

identification data (Dudek paragraph 139: "The system controller 79 assembles the D channel

code words being transmitted by the base station 3, and examines the PID and LID fields.").

38.   As per claim 17, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 16 wherein said call identification data comprises time information (Dudek

paragraph 139: "If the system controller 79 does not detect its own PID code within a time-out

period, then in step H5 the handset 11 will conclude that the received call from the base station 3

is not intended for it, and it will return to step H1.").

39.   As per claim 18, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 16 wherein said call identification data comprises information regarding the

types of modems being connected (Dudek paragraph 166: " ... the LID code may identify the

telepoint company or system with which the handset is registered ... ").

40.   As per claim 19, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 16 where in said call identification data comprises information regarding which

telephone line is being used (Dudek paragraph 139: "If the system controller 79 does not detect

its own PID code within a time-out period, then in step H5 the handset 11 will conclude that the

received call from the base station 3 is not intended for it, and it will return to step H1.").

41.   As per claim 20, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 wherein said second logical channel is used simultaneously with said primary

data channel (Dudek col. 7 lines 23-42: first logic channel and second logic channel are being

used simultaneously; col. 21 lines 27 to 34: channels B and D are used simultaneously).

42.   As per claim 21, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 20 further comprising: analyzing said primary data channel and said second

logical channel for usage; and prioritizing said primary data channel if both said primary data

channel and said second logical channel are simultaneously used (Dudek col. 21 lines 27 to 34: B

channel given priority to have the speech data; both channels are inherently analyzed for usage;

col. 35 last paragraph: amount of data currently stored in the stores).

43.   As per claim 22, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 further comprising transmitting said identification data on said second logical

channel (Dudek col. 21 line 42: "identification ... codes").

44.   As per claim 23, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 wherein the diagnostic/maintenance data is used to optimize the data

communication session (Kalmanek fig. 4: optimizing connection by closing gate if

acknowledgement is not received in a specific time period).

45.   As per claim 24, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 further comprising sending AT commands to the second modem on the

second logical channel; and receiving a response to said AT commands from said second modem

(Dudek figs. 33, 34: querying to see if ID is ok or lost and also sending mux).

46.   As per claim 25, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 further comprising receiving AT commands from the second modem on the

second logical channel; and transmitting a response to said AT commands (Dudek figs. 33, 34:

querying to see if ID is ok or lost and also sending mux).

47.   As per claim 26, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 wherein said diagnostic/maintenance data comprises a remote query to

responses of said second modem to diagnostic query commands (Dudek figs. 33, 34: querying to

see if ID is ok or lost is from remote).

48.   As per claim 27, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 wherein said diagnostic/maintenance data comprises a random or pseudo-

random number which indexes into a database uniquely or pseudo-uniquely identifying call

conditions (Dudek paragraph 150: "The new LID code is an arbitrarily chosen code which

identifies this specific link between the base station 3 and the handset 11."; fig. 8: arrangement of

data in a data structure).

49.   As per claim 28, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 further comprising: sending a query command to the second modem on said

second logical channel; and receiving a response to said query commands from said second

modem (Dudek col. 21 lines 27 to 52: D channel; "enable one part to recognize the other";

"permit or refuse to permit a communication link").

50.   As per claim 29, Scott in view of Kalmanek and further in view of Dudek teaches the

method of claim 6 further comprising: receiving a query command from the second modem on

said second logical channel and transmitting a response to said query commands to said second

modem (Dudek col. 21 lines 27 to 52: D channel; "enable one part to recognize the other";

"permit or refuse to permit a communication link").

51.   As per claim 31, Scott in view of Kalmanek teaches the method of claim 30. Scott in

view of Kalmanek does not teach the remainder of the claim. Dudek teaches wherein said first

modem manufacturer parameter is a DSP revision of said first modem (Dudek paragraph 166: "

... the LID code may identify the telepoint company or system with which the handset is

registered ... "; paragraph 15: "Depending on the burst structure being used, as will be described

later, each burst comprises either 68 bits or 66 bits."; revision between 66 bits and 68 bits).

52.   Thus, it would have been obvious, to one of ordinary skill in the art, at time the invention

was made, to arrive at the first modem manufacturer parameter is a DSP revision of said first

modem as indicated by the instant claims, because the combined teaching of Scott in view of

Kalmanek with Dudek suggest communication where the first modem manufacturer parameter is

a DSP revision as recited by the instant claims. Furthermore, one of ordinary skill in the art,

would have been motivated to combine the teachings of Scott in view of Kalmanek with Dudek

because Scott in view of Kalmanek suggests negotiation (something broad) in general and Dudek

suggests the beneficial use of negotiation (such as performing identification) in the analogous art

of telecommunication.

53.   As per claim 32, Scott in view of Kalmanek teaches the method of claim 30. Scott in

view of Kalmanek does not teach the remainder of the claim. Dudek teaches wherein said first

modem manufacturer parameter is a firmware revision of said modem (Dudek paragraph 166: "

... the LID code may identify the telepoint company or system with which the handset is

registered ... "; paragraph 15: "Depending on the burst structure being used, as will be described

later, each burst comprises either 68 bits or 66 bits."; revision between 66 bits and 68 bits).

54.   Thus, it would have been obvious, to one of ordinary skill in the art, at time the invention

was made, to arrive at the first modem manufacturer parameter is a firmware revision of said

modem as recited by the instant claims, because the combined teaching of Scott in view of

Kalmanek with Dudek suggest communication where the first modem manufacturer parameter is

a firmware revision as indicated by the instant claims. Furthermore, one of ordinary skill in the

art, would have been motivated to combine the teachings of Scott in view of Kalmanek with

Dudek because Scott in view of Kalmanek suggests negotiation (something broad) in general and

Dudek suggests the beneficial use of negotiating bits (such as performing identification) in the

analogous art of telecommunication.

55.   Claims 38, 40-48 are discussed in respect to other claims above.

56.   Claims 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott

5,311,596 in view of Dudek 5,208,812 and Jones 6513068/Storch 5367148. Here is how the

references teach the claims:

57.   As per claim 34 Scott teaches a modem identification method for use by a first modem, said first modem being in communication with a host, said method comprising: placing a call by said first modem (Scott fig. 1: 200) to a second modem (Scott fig. 1: 120); completing a physical handshaking process to establish a data communication session with said second modem (Scott in col. 4 lines 25-26 says "handshaking and training to establish a data connection" and then in lines 37-38, Scott says "fig. 3... after establishing the data connection ... in step 305, CPU 210 proceeds to step 310..."; fig. 4: 620, 625); establishing an error correction process with said second modem, said error correction process having a primary channel, for exchanging data between said host and said second modem, and a secondary channel (this is not in Scott but it would be obvious as discussed below); transmitting a first modem manufacturer parameter to said second modem (Scott fig. 4: 610 is modem identification; Scott col. 7 lines 35-36: receipt of modem id can occur during handshaking process) via said secondary channel, wherein said first modem manufacture parameter identifies said first modem (Scott figs. 3, 4, 5: modem id); receiving a second modem manufacturer parameter from said second modem (Scott fig. 4: 615 based on key as in fig. 3) via said secondary channel, wherein said second modem manufacture parameter identifies said second modem (Scott col. 7 lines 37-52; col. 6 line 30 to col. 7 line 15; digital signature, certificate, password assigned).

58.   What Scott does not teach is establishing an error correction process with said second modem said error correction process having a primary channel, for exchanging data between said host and said second modem, and a secondary channel. What Dudek teaches is establishing an error correction process with said second modem (Dudek paragraph 6: "an arrangement is provided in which two logical channels are multiplexed together, with signals of one logical

channel being encoded to enable error detection, and detected errors in this logical channel being

monitored and used as a measure of the extent to which the other channel is exposed to errors.";

"Accordingly, it is advantageous to encode transmitted signals for error detection and correction

and/or monitor the link quality to enable remedial steps such as breaking and re-establishing the

link, possibly on a different radio channel, if the link quality becomes unacceptably low"). What

Dudek teaches is said error correction process having a primary channel, for exchanging data

between said host and said second modem, and a secondary channel (Dudek col. 7 lines 23-42:

"first logic channel"; col. 7 lines 23-42: "second logic channel"; paragraph 136: D channel).

59.   Thus, it would have been obvious, to one of ordinary skill in the art, at time the invention

was made, to arrive at the establishing an error correction process with said second modem said

error correction process having a primary channel, for exchanging data between said host and

said second modem, and a secondary channel as recited by the instant claims, because the

combined teaching of Scott with Dudek suggest communication while establishing an error

correction process with said second modem said error correction process having a primary

channel, for exchanging data between said host and said second modem, and a secondary

channel as indicated by the instant claims. Furthermore, one of ordinary skill in the art, would

have been motivated to combine the teachings of Scott with Dudek because Scott suggests

determining if there is an error (i.e. Scott col. 7 line 50) (something broad) in general and Dudek

suggests the beneficial use of having an error correction process, such as breaking and

reestablishing a link to have a better connection and Dudek suggests the beneficial use of having

two channels, such as faster communication, in the analogous art of telecommunication.

60.   What Scott does not teach is wherein said identification data are indicative of a

manufacturer identity and a particular modem version number of the modems. What Jones

teaches is wherein said identification data are indicative of a manufacturer identity and a

particular modem version number (Jones col. 5 lines 33-34: sends back a compatible modem

version; col. 6 lines 1, 15: object ID, property ID). If this is not sufficient, Storch 537148

teaches sending product ID numbers to manufacturer's registration system (Storch col. 11 lines

46-61). Thus, it would have been obvious, to one of ordinary skill in the art, at time the

invention was made, to arrive at the identification data are indicative of a manufacturer identity

and a particular modem version number as recited by the instant claims, because the combined

teaching of Scott with Jones/Storch suggest identification data are indicative of a manufacturer

identity and a particular modem version number as recited by the instant claims. Furthermore,

one of ordinary skill in the art, would have been motivated to combine the teachings of Scott

with Jones/Storch because Scott suggests modem ID (something broad) in general and Jones

suggests the beneficial use of modem version, object ID, property ID such as monitoring and

controlling remote interactive systems and Storch suggests the beneficial use of the manufacturer

receiving the product ID so that it can know if it is genuine in the analogous art of product

identification.

61.   As per claim 35, Scott in view of Dudek teaches the method of claim 34, wherein said

modem manufacturer parameter is a DSP revision of said modem (Dudek paragraph 166: " ...

the LID code may identify the telepoint company or system with which the handset is registered

... "; paragraph 15: "Depending on the burst structure being used, as will be described later, each

burst comprises either 68 bits or 66 bits."; revision between 66 bits and 68 bits).

62.   As per claim 36, Scott in view of Dudek teaches the method of claim 34 wherein said

modem manufacturer parameter is a firmware revision of said modem (Dudek paragraph 166: "

... the LID code may identify the telepoint company or system with which the handset is

registered ... "; paragraph 15: "Depending on the burst structure being used, as will be described

later, each burst comprises either 68 bits or 66 bits."; revision between 66 bits and 68 bits).

63.   As per claim 37, Scott in view of Dudek teaches the method of claim 34. Scott in view of

Dudek does not teach wherein said error correction process is based on V.42 recommendation.

However, it would have been obvious, to one of ordinary skill in the art, at time the invention

was made, to modify the prior art teaching of Scott in view of Dudek by replacing MPT 1375

specification as in col. 1 of Dudek with the V.8 as recited by the instant claims, because Scott in

view of Dudek suggests when there is equipment that is recommended or required to comply

with a standard one would use that standard such as when there is equipment that is

recommended or required to comply with V.8 standards, one would use the V.8 standard, in the

analogous art of telecommunications.

Conclusion

64.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

65.   A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

66.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Pankaj Kumar whose telephone number is (571) 272-3011. The

examiner can normally be reached on Mon, Tues, Thurs and Fri after 8AM to after 6:30PM.

67.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Mohammad H. Ghayour can be reached on (571) 272-3021. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

68.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

                                                             Pankaj Kumar
                                                             Patent Examiner
                                                             Art Unit 2631

PK

MOHAMMED GHAYOUR
SUPERVISORY PATENT EXAMINER